

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Committee Substitute

for

Senate Bill 539

BY SENATORS TAKUBO, DEEDS, OLIVERIO, WELD, TRUMP,

MARONEY, AND WOELFEL

[Originating in the Committee on the Judiciary;

reported January 31, 2024]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §15A-12-9, relating to requiring the West Virginia Fusion Center to create the
3 cold case database; defining terms; requiring law-enforcement agencies to provide
4 required information; explaining the types of cases to be included in the cold case
5 database; explaining the state agency developing the cold case database; delineating the
6 information that must be provided for inclusion in the cold case database for each
7 investigation; and delineating the information that may be provided for inclusion in the cold
8 case database for each investigation if applicable to either the victim of the crime or the
9 suspect in the crime.

Be it enacted by the Legislature of West Virginia:

ARTICLE 12. WEST VIRGINIA FUSION CENTER.

§15A-12-9. Cold case database.

1 (a) As used in this section:

2 "CODIS" means the Combined DNA Index System;

3 "Cold case" means any investigation into a qualifying crime, a missing person, or
4 unidentified human remains where all investigative leads have been exhausted and the crime
5 remains unsolved;

6 "Database" means the cold case database;

7 "NAMUS" means the National Missing and Unidentified Persons System;

8 "NCIC" means the National Crime Information Center;

9 "NCMEC" means the National Center for Missing and Exploited Children;

10 "Qualifying crime" means felony offenses set forth in §61-2-1 et seq., §61-3-1, §61-3-2,
11 §61-3-7, §61-3C-14b, §61-3E-1 et seq., §61-8-1 et seq., §61-8A-1 et seq., §61-8B-1 et seq., §61-
12 8C-1 et seq., and §61-8D-1 et seq. of this code; and

13 "VICAP" means the Violence Crime Apprehension Program.

14 (b) The West Virginia Fusion Center shall develop a secure database that contains all
15 information related to each cold case in any jurisdiction in the state.

16 (c) The West Virginia Fusion Center shall adopt policies and procedures to collect
17 information for the database and for its maintenance.

18 (d) Each law-enforcement agency in the state and the State Fire Marshal's Fire
19 Investigation Division shall provide the information required by the West Virginia Fusion Center
20 for inclusion in the database for each cold case. Each law-enforcement agency and the office of
21 the State Fire Marshal shall maintain its physical evidence and investigation files for each cold
22 case until the investigation is resolved.

23 (e) Information to be collected and maintained in the cold case database. – Each law-
24 enforcement agency in the state and the Fire Marshal's Fire Investigation Division shall provide a
25 written report or other information to the West Virginia Fusion Center for inclusion in the database
26 containing the following:

27 (1) The victim's:

28 (A) Name;

29 (B) Gender;

30 (C) Race;

31 (D) Ethnicity; and

32 (E) Date of birth;

33 (2) The ViCAP number if the case has been entered into the ViCAP system;

34 (3) The NCMEC number if the case has been entered into the NCMEC system;

35 (4) Whether the case was entered into the NAMUS system;

36 (5) The NCIC number if entered into the NCIC system;

37 (6) The Medical Examiner case number;

38 (7) Whether a probative, unanalyzed suspect referenced DNA is available;

- 39 (8) Whether a probative crime scene DNA profile from the putative perpetrator has been
40 uploaded to CODIS;
- 41 (9) Whether reference DNA from the victim is available;
- 42 (10) The West Virginia State Police Forensic Lab case number;
- 43 (11) The name of the agency investigating the case;
- 44 (12) The investigating agency's phone number;
- 45 (13) The agency case number;
- 46 (14) Whether the victim was a juvenile or adult victim at the time the crime occurred;
- 47 (15) The date the crime was reported to the investigating agency;
- 48 (16) The date or approximate date the victim was last seen;
- 49 (17) The date or approximate date of death;
- 50 (18) The cause or manner of death;
- 51 (19) The location where the body was found;
- 52 (20) Whether a weapon was used, and the type of weapon used;
- 53 (21) Whether the following evidence is available:
- 54 (A) Fingerprints;
- 55 (B) Palm prints;
- 56 (C) Latent prints;
- 57 (D) Dental records;
- 58 (E) Shell casings; or
- 59 (F) Other physical evidence;
- 60 (22) Whether a suspect or person of interest has been identified;
- 61 (23) Scars, marks, and tattoos and any other unique distinguishing features of any
62 suspects or persons of interest;
- 63 (24) A case narrative; and
- 64 (25) Any other additional information that is pertinent to the case.

65 (f) The following information may be entered if applicable to either the victim or the
66 suspect, but the law-enforcement agency shall specify which individual is being referenced:

67 (1) Vehicle information;

68 (2) Aliases;

69 (3) Associated case addresses;

70 (4) Associated phone numbers;

71 (5) Associated names;

72 (6) Case photos or composite drawings at the discretion of the investigating agency; and

73 (7) Any other additional information that is pertinent to the case.

74 (g) The West Virginia Fusion Center shall maintain the information contained within the
75 database indefinitely.